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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8178 of 95

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
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PROPRIETOR

..Petitioner(s)

Versus

STATE OF GUJARAT

..Respondent(s)

Appearance:

MR JR NANAVATI for Petitioner
MS. HARSHA DEVANI, A.G.P. for the respondents.

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 22/02/96

ORAL JUDGEMENT

Rule. The learned A.G.P. appearing for the respondents waives service of rule. The matter is taken up for final disposal at the request of both the sides.

The only grievance that the petitioner voiced through his learned counsel at the hearing was that while confiscating

the goods, the authorities have not considered the quantum of punishment. The entire quantity of goods namely 3627 kgs.of groundnut oil and 1320 kgs. of groundnut was confiscated. The appellate authority while dismissing the petitioner's appeal and confirming the order of confiscation made by the Deputy Collector, has directed himself into the question of quantum of punishment.

In ARVINDKUMAR & BROTHERS VS. STATE OF GUJARAT reported in 1995(1) G.L.H. 833 his Lordship Mr. Justice J.N. Bhatt has in a similar context in terms observed that the authority has to decide in light of the facts and circumstances of a given case as to whether the case is fit for exercising powers for confiscating the entire quantity of the goods or only a part thereof. Under these circumstances, it has become necessary to direct the appellate authority to reconsider the question of quantum of punishment in light of the decision of this Court in ARVINDKUMAR'S case (supra) and take a fresh decision on that aspect only. Rule is made absolute accordingly with no order as to costs.

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